

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

## SUPPORTING STATEMENT FOR FISHERIES CAPACITY REDUCTION PROGRAM ADVANCED REFERENDA AND OTHER ADDITIONAL REQUIREMENTS

*This emergency clearance request seeks to obtain approval for two sets of requirements not currently approved under 0648-0376. The first set consists of an entirely new requirement, an additional referendum procedure to the one already cleared. The second set of requirements consist of items that were not specified in the proposed rule but which NOAA had considered as implicit in requirements that were defined. Since it has been decided to now make these requirements explicit, they are being submitted for approval. To help place changes to the original approval in context, this Supporting Statement repeats the justification for the overall requirements. Text relating to the proposed changes requested is in italics.*

### A. Justification

1. The Sustainable Fisheries Act amended the Magnuson-Stevens Fishery Conservation and Management Act to provide for voluntary reduction of excess fishing capacity through Fisheries Capacity Reduction Programs (buyback programs). This request for information collection approval involves standard information required to be included in any buyback request for any fishery. A proposed rule to set up framework guidelines for future implementation of buyback programs for specific fisheries has been or is being published.

### Background

The Sustainable Fisheries Act (SFA) amended the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to provide for voluntary fishing capacity reduction (FCRP). This proposed rule adds a subpart D to 50 CFR part 253 to establish rules common to all FCRPs. Excess fishing capacity decreases fisheries earnings, complicates fishery management and imperils fishery conservation. Congress acknowledged this by providing FCRP authority.

The statutory objective of a FCRP is “to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time.” FCRP programs, commonly known as buybacks, pay fishermen either to (1) surrender their fishing permits or (2) both surrender their permits and either scrap their fishing vessels or restrict vessel title to prevent fishing. Buybacks can involve either a Federal or State fishery. Buybacks can be funded via a long-term loan from the Federal government to the fishery (called industry-funded buybacks), to be repaid by the industry by post-buyback landing fees, or funded from appropriations (non-industry funded) or other non-loan sources of funds.

This proposed rule would set up framework guidelines for the future implementation of FCRP programs for specific fisheries. The Sustainable Fisheries Act amendments to the MSA require a separate rule for each specific FCRP. These proposed guidelines are intended to provide direction and elaboration for future specific rules.

2. Buybacks can involve as many as six types of information collection requirements on the public. These are:

- (1) Buyback requests,
- (2) Invitations to bid,
- (3) Referendum material review and vote,
- (4) Buyer reporting and recordkeeping,
- (5) Seller reports (if buyers do not collect the fee), and
- (6) State actions for fisheries subject to State authority.

## **FISHERIES SUBJECT TO FEDERAL AUTHORITY**

The steps in an industry-funded buyback are as follows (steps involving information requirements are underlined):

- (1) Industry proponents (Private Sector):
  - (a) Develop buyback business plan and loan proposal (buyback business plan), and
  - (b) Submit buyback business plan to Fishery Management Council (FMC);
- (2) FMC:
  - (a) Approves buyback business plan;
  - (b) Approves FMP amendment required to complement buyback business plan;
  - and
  - (c) Submits buyback request to NMFS;
- (3) NMFS:
  - (a) Determines whether buyback request is sufficient;
  - (b) Prepares buyback implementation plan and regulations;
  - (c) Approves buyback loan (assumes availability of sufficient appropriation and apportionment authority);
  - (d) Adopts buyback amendment to FMP;
  - (e) Proposes buyback implementation plan and regulations;
  - (f) Adopts buyback implementation plan and regulations;
  - (g) Invites buyback bids;
  - (h) Receives and tallies buyback bids;
  - (i) Accepts buyback bids;
  - (j) Conducts buyback referendum;
  - (k) Certifies buyback referendum results approving the industry fee system;
  - (l) Advises accepted buyback bidders of removal of express condition subsequent (i.e., referendum approval);
  - (m) Conducts buyback;
  - (n) Upon completing the buyback, the FMP buyback amendment becomes effective, and buyback implementation regulations become fully effective, upon buyback completion; and.

(o) Collection-of-fees process begins (buyer reporting and recordkeeping and possible seller reports).

*Note: Comments sought from the public on the framework regulations indicate that getting Council action to complete an amended Fishery Management Plan could be accomplished more easily if a referendum were held earlier in the process.*

*The Council and the industry must work closely together to ensure a buyback's success. Each group must make difficult and often unpopular decisions. In most cases the permits and/or vessels retired by a buyback loan will solve only part of the problem. In most cases the Council will need to place more stringent restrictions on vessel eligibility (by amending the Fishery Management Plan) to reduce the fishing capacity to the desired level.*

*The comments suggest that the Council may require additional proof that the fishery participants will support the buyback process before investing the time and energy required to amend the Fishery Management Plan. Holding a referendum early in the process could provide that proof or in the alternative demonstrate that further efforts to hold a buyback will prove fruitless. An early referendum could occur at any time after the industry has completed a buyback business plan and loan proposal and has determined with some certainty what will be needed to amend the Fishery Management Plans. The advanced referenda would be inserted into the steps identified above and for State-Managed Fisheries below.*

*The referendum would become binding on all parties if the eventual amendment to the Fisheries Management Plan matched the terms of the referendum.*

*If major differences occur in the amended Fishery Management Plan, another pre-bidding referendum would be held to determine whether the fishery participants were willing to continue to support the buyback proposal.*

*NMFS supports this change and will include it in the final plan. The currently approved post-bidding referendum would only take place if the bidding results did not meet the capacity-reduction specifications of the plan. We have increased the burden hours to account for this circumstance.*

The steps in a non-industry financed buyback involve much less collection of information from the public, since the industry neither develops the plan or is subject to fees. The steps are:

(1) FMC:

- (a) Develops preliminary buyback proposal; and
- (b) Submits buyback request to NMFS;

(2) NMFS:

- (a) Preliminarily determines whether buyback request is sufficient;
- (b) Develops buyback plan;

- (c) Submits buyback development plan to FMC for confirmation;
- (3) FMC:
  - (a) Approves FMP amendment required to complement buyback development plan; and
  - (b) Submits buyback confirmation to NMFS; and
- (4) NMFS:
  - (a) Determines buyback request is sufficient;
  - (b) Adopts buyback FMP amendment;
  - (c) Prepares buyback implementation plan and regulations;
  - (d) Determines sufficiency of appropriation and apportionment authority;
  - (e) Proposes buyback implementation plan and regulations;
  - (f) Adopts buyback implementation plan and regulations;
  - (g) Invites buyback bids;
  - (h) Receives and tallies buyback bids;
  - (i) Accepts buyback bids; and
  - (j) Conducts buyback.

NOAA anticipates that most buybacks will be industry-funded.

## **FISHERIES SUBJECT TO STATE AUTHORITY**

If the fishery involved is subject to State authority, the buyback request must be made by the Governor(s) of the State(s) exercising management authority over the fishery. The term “fishery authority” can mean either the Fishery Management Council or the Governor, as appropriate to the fishery.

The steps in an industry-funded buyback are as follows (steps involving information requirements are underlined):

- (1) Industry proponents (Private Sector):
  - (a) Develop buyback business plan and loan proposal (buyback business plan), and
  - (b) Submit buyback business plan to Governor;
- (2) Governor:
  - (a) Approves buyback business plan;
  - (b) Approves state fishery management plan amendment required to complement buyback business plan; and
  - (c) Submits buyback request to NMFS;
- (3) NMFS:
  - (a) Determines whether buyback request is sufficient;
  - (b) Prepares buyback implementation plan and regulations;
  - (c) Approves buyback loan (assumes availability of sufficient appropriation and apportionment authority);
  - (d) Proposes buyback implementation plan and regulations;

- (e) Adopts buyback implementation plan and regulations;
- (f) Invites buyback bids;
- (g) Receives and tallies buyback bids;
- (h) Accepts buyback bids;
- (i) Conducts buyback referendum;
- (j) Certifies buyback referendum results approving the industry fee system;
- (k) Advises accepted buyback bidders of removal of express condition subsequent (i.e., referendum approval);
- (l) Conducts buyback;
- m) Upon completing the buyback, the state buyback implementation regulations become fully effective; and
- (n) Collection-of-fees process begins (buyer reporting and recordkeeping and possible seller reports)..

See Note 1 above:

The steps in a non-industry financed buyback involve much less collection of information from the public, since the industry neither develops the plan or is subject to fees. The steps are:

- (1) Governor:
  - (a) Develops preliminary buyback proposal; and
  - (b) Submits buyback request to NMFS;
- (2) NMFS:
  - (a) Preliminarily determines whether buyback request is sufficient;
  - (b) Develops buyback plan; and
  - (c) Submits buyback development plan to Governor for confirmation;
- (3) Governor:
  - (a) Approves state fishery management plan amendment required to complement buyback development plan; and
  - (b) Submits buyback confirmation to NMFS; and
- (4) NMFS:
  - (a) Determines buyback request is sufficient;
  - (b) Approves state buyback implementation plan and regulations;
  - (c) Determines sufficiency of appropriation and apportionment authority;
  - (d) Adopts buyback implementation plan and regulations;
  - (e) Invites buyback bids;
  - (f) Receives and tallies buyback bids;
  - (g) Accepts buyback bids; and
  - (h ) Conducts buyback.

The specific types of information requirements are addressed below.



## Buyback Requests

The relevant fishery management authorities are the parties authorized exclusively to initiate buyback requests, and buyback plans must support these requests. NMFS develops these for non-industry-funded buybacks for Federally-managed fisheries, while the State develops them for State-managed fisheries.. For industry-funded buybacks, the relevant fishery management authority (usually an FMC) makes the request, but obtains the business plan from the buyback proponents in the fishery industry.

In industry-funded buybacks, NMFS is the lender and post-buyback harvesters are the borrower (repaying the loan through landing fees). It is a conflict of interest for lenders to develop borrowers' plans for the conduct of borrowers' activities. Consequently, NMFS requires the borrower (in the form of buyback proponents who will potentially be post-buyback harvesters) to prepare buyback development plans for industry-funded buybacks. The buyback implementation plan and regulations that NMFS must propose and adopt for each industry-funded buyback institutionalize this buyback development plan. For subsidized buybacks, the requester must prepare a preliminary development plan. The preliminary development plan is a more precursory and generalized reduction proposal than the business plan required for a financed program and is used by NMFS to prepare a final development plan.

The buyback proponents must gather the information and do the analysis necessary to develop a successful buyback business plan. Buyback proponents asking the relevant fishery management authority to request an industry-funded buyback must be responsive to the practical necessity that buyback development plans reflect fairly the needs, interests, and desires of a broad spectrum of the buyback fishery's harvesters. The buyback business plan must include both those who may wish to leave the fishery (be bought back) and those who may wish to remain in the fishery (repay the buyback loan). Buyback development planners must demonstrate this by extensive coordination during plan development. This should be supported by surveys of affected harvesters. Buyback development plans that are not realistic and broadly supported by the buyback fishery's harvesters have little chance of referendum approval and may waste considerable time and effort.

Development plans for industry-funded buybacks must, if they are to succeed, be sufficient to:

- (1) Convince the relevant fishery management authority to request a buyback,
- (2) Convince NMFS to finance a buyback,
- (3) Allow NMFS to readily prepare buyback implementation plans and regulations based on the buyback development plans,
- (4) Enable bidding results that convince industry voters to approve buyback financing, and
- (5) Enable NMFS to complete the buyback.

To avoid conflicts of interest, however, NMFS neither develops nor assists in developing industry-funded buyback plans. NMFS will, however, provide buyback planners with whatever

fisheries data, statistics, or other public information may be relevant to plan development. NMFS will, upon request, also review and comment on industry-funded buyback plans during its development stage.

*The initial clearance request did not make clear that a request for a program consists of more than just the business plan per se. This information was specified in 253.27 of the proposed rule and would be specified in 600.1003 of the attached draft interim final rule. The information is needed to make the determinations set forth above. The original burden estimate for business plans included the time needed for the related request.*

A buyback business plan must:

- (1) Specify detailed buyback methodology and procedures, *including the appropriate point to conduct a pre-bidding referendum;*
- (2) Project the buyback fishery's annual gross ex-vessel income during the buyback loan's term;
- (3) Specify the buyback loan's principal and repayment term;
- (4) Specify the minimum amount of reduced capacity for the buyback to be cost-effective;
- (5) Analyze buyback cost-effectiveness at the minimum level and at additional incremental levels;
- (6) Specify measures to prevent replacement of removed fishing capacity by vessel upgrades or other means;
- (7) Propose a specified or target total allowable catch that will trigger post-buyback closures or other measures to reduce catch;
- (8) Specify the names and addresses of all likely post-buyback fish buyers;
- (9) Specify fee collection and reporting procedures *(in the case of fisheries in which some sellers sell unprocessed fish to buyers and others sell processed fish to buyers, a means of establishing the delivery value of processed fish needs to be specified; also the procedures may need specify what actions may be needed, and who must take them, if state confidentiality laws or other impediments will negatively affect the collection and reporting procedures);*
- (10) Demonstrate measures used to ensure wide industry support for the business plan;
- (11) Include certification that the business plan will probably accomplish the buyback purpose; and
- (12) *assess the potential impact of the buyback on other fisheries, including the general economic impact and possible steps to mitigate undesirable impacts.*

The information in the business plan will be used by the fishery management authority and NMFS to review the request, develop regulations, and to take other related actions. The fishery authority and NMFS will use the information to determine whether the buyback has a reasonable chance of achieving the goals of the program.

## **Buyback Bids**

Before a buyback program is instituted NMFS determines what permits and/or vessels will be bought back through the use of an inverse auction. The auction terms require the fishery participants to bid competitively against each other via sealed bid. The bids are accepted in inverse order which ensures that the Government is buying the most production capacity for the least amount of money.

Each invitation to bid will constitute the entire terms and conditions of a buyback agreement under which each bidder shall make an irrevocable offer to the United States of fishing capacity to be bought back by the United States, and the Assistant Administrator shall accept or reject, on behalf of the United States, each bidder's irrevocable offer.

## **Buyback Referendum**

Buybacks are a voluntary process and each individual buyback must be approved through a referendum of the fishery's participants. When a referendum is conducted each participant in the fishery will receive a ballot, accompanying information and enclosures.

The ballot will contain a randomly derived, 5-digit number assigned to each eligible voter, shall contain a place for the voter to vote "for" (yes) or "against" (no) the proposed industry-fee system, and shall contain a place adjacent to the 5-digit number for the original signature of the party purporting to have authority to sign the ballot on the voter's behalf.

The accompanying information will: (1) summarize the referendum's nature and purpose; (2) establish the last date by which the Assistant Administrator must receive a completed ballot in order for the ballot to be counted as a qualified vote (which date shall be no later than 20 days from the date on which the Assistant Administrator mailed the ballot unless the twentieth day is a Saturday, Sunday, or a Federal holiday, in which event the Assistant Administrator must receive the ballot no later than the next business day); (3) identify the place on the ballot for the voter to vote "for" (yes) or "against" (no) the industry-fee system, the place where the person signing the ballot on the voter's behalf must sign the ballot, and the purpose of the enclosed envelope in returning the completed ballot to the Assistant Administrator; (4) establish the total buyback cost, the amount of the buyback loan (if different than the total buyback cost), the term of the buyback loan, and the amount of fishing capacity that the total buyback cost will buy back; (5) establish the fee rate necessary to amortize the buyback loan over its term and the fee rate for the first year after buyback completion; and (6) summarize such other factors as the Assistant Administrator deems pertinent.

The enclosures will include: (1) a specially marked and pre-addressed envelope (which may be transmitted in the U.S. mail without prepayment of postage) that a voter must use to return the ballot to the Assistant Administrator by whatever means of delivery the voter chooses; (2) a copy of the adopted FMP amendment complementing buyback; (3) a copy of the adopted buyback

implementation plan and regulations; and (4) a copy of the instructional portion of the framework regulation dealing with the referendum.

*In the event of an early referendum the enclosures will include: (1) a specially marked and pre-addressed envelope (which may be transmitted in the U.S. mail without prepayment of postage) that a voter must use to return the ballot to the Assistant Administrator by whatever means of delivery the voter chooses; (2) a copy of a proposed FMP amendment; (3) a copy of the proposed industry buyback plan and (4) a copy of the instructional portion of the framework regulation dealing with the referendum.*

The referendum is necessary to establish the conditions under which NMFS can collect fees from the industry participants to repay the buyback loan.

### **Buyer reporting and Recordkeeping**

The repayment of an industry-funded buyback is dependant on the collection of fees by the first purchasers of the fish from the buyback fishery. These fees are remitted to a lockbox at the Treasury Department where they are eventually applied against the buyback loan. The statutory authority exists to collect up to 5% of the ex-vessel sale value of the fish to repay the loan.

Each fish buyer required to collect fees must maintain a segregated account at a Federally-chartered national bank for the sole purpose of depositing fee collections and disbursing them therefrom to the Assistant Administrator. At the end of each business day the buyer must deposit into the account all collected fees. On the last business day of each calendar month the fish buyer will send the full deposit principle to NMFS. To support this system the buyer must maintain certain records and submit an annual report.

Records maintenance: Each fish buyer must, on forms the Assistant Administrator specifies, maintain accurate records of all transactions involving fees. Each fish buyer must maintain such records in a secure and orderly manner for a period of at least 3 years from the date of the transactions involved. The following information shall be maintained by each fish buyer for all deliveries of post-buyback fish such fish buyer buys:

- (1) Delivery date;
- (2) Fish seller's name;
- (3) Number of pounds of each species of post-buyback fish bought;
- (4) Name of fishing vessel from which unloaded;
- (5) Ex-vessel price per pound of each species of such fish;
- (6) Total ex-vessel value of such fish;
- (7) Net ex-vessel value of such fish;
- (8) Name of party to whom net ex-vessel value paid if other than fish seller;
- (9) Date net ex-vessel value paid;
- (10) Total fee amount collected; and

- (11) Such other information as the Assistant Administrator shall deem reasonably necessary for each buyback.

Much of this information (date, name, pounds delivered, vessel, price per pound, date) is collected as part of normal fish ticket procedures in many fisheries. The fee information and the length of the record retention would always be an additional burden.

In addition, the buyer must maintain records on all fee collection deposits to, and disbursements from, the deposit account:

- (1) Dates and amounts of deposits;
- (2) Dates and amounts of disbursements to the Fund's lockbox account the Assistant Administrator designates; and
- (3) *Dates and amounts of disbursements to the fish buyer, or other parties, of interest earned on deposits (this information would be a normal part of bank statements).*

The fish ticket and deposit/disbursement information is necessary to enforce the fee collection process to ensure that the Federal government is repaid and that fishermen's fees are directed to that end.

Annual report: Buyers must also submit a report not later than January 31st of each year succeeding a year during which the Assistant Administrator first effected a fee. The report must contain the following buyback information for the preceding calendar year:

- (1) Total pounds of buyback fish purchased from each fish seller;
- (2) Total net ex-vessel value of payments to each fish seller;
- (3) Total fee amounts collected from each fish seller;
- (4) Total fee collection amounts deposited by month;
- (5) Dates and amounts of monthly disbursements to the Fund lockbox account;
- (6) Total amount of deposit interest withdrawn by fish buyer; and
- (7) Balance of depository account at year-end.

This information is also needed to track and enforce the fee collection system.

### **Seller/Buyer Reports**

These reporting requirements would apply in situations where one of the parties in a sale refuses to either pay or collect the required fees.

If a fish buyer refuses to collect the fee, the fish seller is supposed to advise the fish buyer of the fish seller's fee payment obligation and of the fish buyer's fee collection obligation. If the fish buyer still refuses to collect the fee, the fish seller must, within the next 24 hours, forward the fee to the Assistant Administrator and advise the Assistant Administrator in writing of the full particulars, including: the fish buyer's and fish seller's name, address, and telephone number; the name of the fishing vessel from which the fish seller made post-buyback fish delivery and the date

of doing so; the quantity and ex-vessel value of each species of such fish delivered; and the fish seller's reason for refusing to collect the fee in accordance with this subpart.

If a fish seller refuses to pay the fee to the buyer, the fish buyer should advise the fish seller of the fish buyer's collection obligation and of the fish seller's payment obligation. If the fish seller still refuses to pay the fee, the fish buyer must either collect the fee over the fish seller's protest or refrain from buying the post-buyback fish and, within the next 24 hours, advise the Assistant Administrator in writing of the full particulars, including: the fish buyer's and fish seller's name, address, and telephone number; the name of the fishing vessel from which the fish seller made or attempted to make post-buyback fish delivery and the date of doing so; the quantity and ex-vessel value of each species of such fish delivered or attempted to be delivered; whether the fish buyer collected the fee over the fish seller's protest or refrained from buying such fish; and the fish seller's reason for refusing to pay the fee.

These reports are necessary to correct any problems that develop in the fee-collection process.

### **State Actions for Fisheries Subject to State Authority**

The information requirements on the State depend upon the type of buyback involved. For industry-funded buybacks, the Governor must: approve the buyback business plan submitted to him by the industry, approve any state fishery management plan amendment required to complement the buyback business plan, and submit the buyback request to NMFS.

When the buyback is not to be funded by industry, the State develops and submits the business plan and buyback proposal. It also must approve any state fishery management plan amendment required to complement the buyback development plan and submit buyback confirmation to NMFS.

3. No automated techniques are required as part of this process. Electronic means of submitting information may be allowed between industry and the fishery management authority. Exact procedures will depend upon the specific fisheries and other parties involved.

4. Because NOAA is the sole Federal provider of FCRP buybacks, there is no duplication of other information requests.

5. These requirements should not have a significant impact on small businesses or entities.

6. If the collections were not conducted statutorily mandated financial assistance could not be delivered. The only requirements with a set frequency of submission are the fee-related submission of an annual report. This frequency is deemed minimal for protecting the process from abuse.

7. The requirements are consistent with OMB guidelines except for the following. Reporting will take place more often than quarterly in the case of submission of the fee collections on a monthly basis. Increased frequency is deemed necessary for safer management and more efficient repayment. It is uncertain whether less than 30 days might be allowed for submissions of bids or responses to referenda. This would be determined by the specific buyback and it is possible that some cases might call for quicker response.

8. The proposed rule soliciting public comment is attached. Consultations have already taken place with the Fishery Management Councils and fishery representatives.

9. Aside from the loan that may be part of a buyback program, no payments will be made to respondents.

10. No confidentiality is promised or given.

11. No sensitive questions are asked.

12. Burden - This submission supports a framework regulation. Specific buyback programs will generate additional rulemaking. While NOAA can identify the elements of information collection requirements, the specific burden imposed by the requirements can vary greatly because of the different sizes and natures of the fisheries that may be involved. The estimates that follow are based upon the assumption that there will be 4 buybacks per year, three for fisheries under Federal authority and one for fisheries under State authority. The estimates for the preparation of a plan are based on data from an actual buyback plan prepared by the Aleutian Islands/Bering Sea Crab Fishery, which is expected to be representative of submissions made. The estimates for the preparation of a bid are based on input from an accounting firm that prepared bids in a New England Groundfish Fishery buyback. The other estimates are more tentative; after some experience is obtained these figures will be adjusted as necessary.

For calculating total burden, we have assumed: that 3 buyback plans for fisheries under Federal management authority will be submitted per year; that referenda and bids in an average fishery will affect approximately 400 vessels; that there will be an average of 250 vessels in the fishery after the buyout, with about 200 fishing at any time; that there will be 24 buyers in a fishery; that buyers will report on a total of 1,800 trips per fishery (9 landings per 200 vessels); that seasons are 6 months, resulting in 6 monthly deposit reports; and that sellers or buyers will submit 20 reports per year. Although not all 400 vessels would decide to make a bid, all would probably read the material sent to them and calculate whether a bid would be to their advantage, so we have included the entire fishery as bid respondents. We have also assumed 1 industry-funded buyback per year for fisheries under State management authority, with the same fishery-size and reporting assumptions as for a Federal fishery. The burden of plans is expected to drop as industry becomes familiar with the framework rule and other examples are available.

## **BURDEN IN YEAR 1:**

### **Industry-Funded Buybacks in Federally-Managed Fisheries**

3 Business Plans/yr. x 6,634 hours/plan = 19,902 hours  
3 *advance referenda/yr x 4 hrs x 400 voters = 4,800 hours*  
1 *post-bid referenda/yr. x 4 hrs./voter x 400 voters = 1,600 hours*  
3 Invitations to bid/yr. x 4 hrs./bid x 400 bids = 4,800 hours  
1,800 trips x 10 min./fish ticket = 300 hours  
24 buyers x 6 monthly reports/yr. x 2 hrs./report = 288 hours  
24 buyers x 1 annual report x 4 hrs./report = 96 hours  
20 seller/buyer reports/year x 2 hrs./report = 40 hrs.

### **Non-Industry-Funded Buybacks in Federally-Managed Fisheries**

No such buybacks are anticipated. If one were done, the only public burden would be the submission of bids at 4 hours per bid.

### **Industry-Funded Buybacks in State-Managed Fisheries**

1 Business Plan/yr. x 6,634 hours/plan = 6,634 hours  
1 state approval of plan and amendment to state fishery management plan x 270 hrs = 270 hours  
1 *advance referendum/yr. x 4 hrs./voters x 400 voters = 1,600 hours*  
1 *post-bid referendum/yr. x 4 hrs./voter x 400 voters = 1,600 hours*  
1 Invitation to bid/yr. x 4 hrs./bid x 400 bids = 1,600 hours  
600 trips x 10 min./fish ticket = 100 hours  
8 buyers x 6 monthly reports/yr. x 2 hrs./report = 96 hours  
8 buyers x 1 annual report x 4 hrs./report = 32 hours  
6 seller/buyer reports/year x 2 hrs./report = 12 hrs.

### **Non-Industry-Funded Buybacks in State-Managed Fisheries**

0 Business Plan/yr. x 6,634 hours/plan = 0 hours  
0 state approval of plan and amendment to state fishery management plan x 270 hrs = 0 hours  
0 Invitations to bid/yr. x 4 hrs./bid x 400 bids = 0 hours

## **Burden in Years 2 and 3:**

Assuming the same number of buyouts take place each year, the burden for referenda and invitations will be the same as for Year 1. The annual burden for plans will drop for the reasons explained above. Since buyer reporting and seller/buyer reports would continue for the first year participants until the loan is repaid, the burden for those requirements would increase year to year by increments of the first year burden.



*No hours for a second advanced referendum are estimated as such a referendum is not expected. No additional burden hours are shown for other added requirements because the burden was already part of the original estimates (the additions to the Business Plan) or are minimal (recordkeeping when the information is part of documents already required to be retained on bank actions).*

<b>BURDEN ESTIMATE TOTALS</b>			
	<b>Year 1 Burden</b>	<b>Year 2 Burden</b>	<b>Year 3 Burden</b>
Business plans	26,536	19,900	19,900
State approvals	270	270	270
<i>Advance Referenda</i>	<i>6,400</i>	<i>6,400</i>	<i>6,400</i>
<i>Post-bid Referenda</i>	<i>3,200</i>	<i>3,200</i>	<i>3,200</i>
Invitations to bid and bids	6,400	6,400	6,400
Buyer recordkeeping (fish tickets)	400	800	1,200
Buyer monthly reports	384	768	1,152
Buyer annual reports	128	256	384
Seller/Buyer reports	52	104	156
<b>TOTALS</b>	<b>43,370</b>	<b>38,098</b>	<b>39,062</b>

Averaging the total 3-year burden of 120,530 hours produces an average annual burden of 40,176 hours. *Although the burden of the advance referenda is shown as 6,400 hours, because of the reduction this causes in the post-bidding referenda the net hour change would be 3,200 hours. The number of respondents, responses, hours, and costs on the OMB-83I reflect this net impact.*

13. The costs to respondents would be those for copying and mailing submissions. Those are estimated to average \$6,690 over the 3-year approval period.

<b>COST ESTIMATE TOTALS</b>			
	<b>Year 1 Costs</b>	<b>Year 2 Costs</b>	<b>Year 3 Costs</b>
Business plans	400	400	400

<b>COST ESTIMATE TOTALS</b>			
	<b>Year 1 Costs</b>	<b>Year 2 Costs</b>	<b>Year 3 Costs</b>
State approvals	180	180	180
<i>Advance Referenda</i>	<i>560</i>	<i>560</i>	<i>560</i>
<i>Post-bid Referenda</i>	<i>280</i>	<i>280</i>	<i>280</i>
Invitations to bid and bids	180	180	180
Buyer recordkeeping (fish tickets)	240	480	720
Buyer monthly reports	56	112	168
Buyer annual reports	10	20	30
Seller/Buyer reports	8	16	24
<b>TOTALS</b>	<b>1,915</b>	<b>2,230</b>	<b>2,545</b>

Although recordkeeping will take place, most all of the records involved would already be kept as part of normal business operations and to support tax submissions. So no additional costs have been estimated.

14. There is no annualized cost of this information collection to the Federal government.

15. *These are new program requirements. The net changes to the program are shown in the OMB-83I.*

16. There are no results to be published for the framework rule, however, results will be published for future individual buybacks.

17. N/A.

18. There are no exceptions.